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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,837	10/24/2003	James A. Gavney JR.	JAG-00113	9227
28960	7590	06/01/2005	EXAMINER	
HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			CHIN, RANDALL E	
			ART UNIT	PAPER NUMBER
			1744	
DATE MAILED: 06/01/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/692,837

Applicant(s)

GAVNEY ET AL.

Examiner

Randall Chin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 5,8-19 and 22-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,7,20,21 and 25-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 01202004; 02052004; 05242004; 07192004; 09262004; 10182004; 03142005
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 5; 8-11, 15, 18 and 22-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species (and sub-species), there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11 April 2005.
2. Applicant's election without traverse of the species of Fig. 1B and sub-species of Fig. 5A, claims 1-4, 6, 7, 12-14, 16, 17, 19-21 and 25-32 in the reply filed on 11 April 2005 is acknowledged.
3. Claims 12-14, 16, 17 and 19, indicated by Applicant as readable on elected Figs. 1B and 5A, are being withdrawn from consideration since claim 12 recites on line 4 "a squeegee member with elongated squeegee **walls**" (emphasis added), not disclosed in elected Figs. 1B and 5A.

### *Specification*

4. The disclosure is objected to because of the following informalities:  
On p. 7, line 18, "squeegee 133 the encircles" is awkwardly written.  
On p. 8, line 1, insert --with-- before "the invention" for clarity.  
Appropriate correction is required.

### *Claim Objections*

5. Claims 1, 29 and 31 are objected to because of the following informalities:  
Claim 1, line 5, insert --to-- before "simultaneously".

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Claim 29, line 2, correct "bristles element".

Claim 31, line 2, correct "a first region a continuous".

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by GB 2 319 170.

GB 2 319 170 teaches a cleaning device 100 comprising, a first section 210 configured to rotate or oscillate and a second section 220 configured to rotate or oscillate, wherein the first and the second sections comprise bristles 230.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over GB 2 319 170 in view of GB 2 371 217.

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GB 2 319 170 teaches all of the recited subject matter with the exception of the device further comprising one or more squeegee wiping elements. GB 2 371 217 discloses a head section 13 comprising one or more membrane or squeegee wiping elements 23. It would have been obvious to one of ordinary skill in the art to have provided the GB 2 319 170 device with a section further comprising one or more squeegee wiping elements as taught by GB 2 371 217 for the purpose of enhancing cleaning of teeth and gums as well as adding a massaging effect.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1, 4, 6, 31 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Braun US 2004/0154112 (hereinafter Braun '112).

Braun '112 discloses with respect to claim 1 a device in Fig. 1, for example, comprising a cleaning head, the cleaning head 12 comprising a "first region" defined by the volume taken up by the cup member 20 with a squeegee element 20 configured to treat a working surface the first region being configured to move, and a "second region" 18A or 18B with bristles 18 configured to simultaneously treat the working surface, the

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second region 18A or 18B being "configured to move" (broad recitation) independently of the first region, even if operated without motor, i.e., manually.

As for claim 4, at least one of the first and second region is configured to oscillate (paragraph [0027]).

As for claim 6, the first squeegee element 20 comprises a squeegee wall that encircles an inner squeegee region 24.

As for claim 31, Braun '112 teaches an electric toothbrush in Fig. 6 with a cleaning head 612, the cleaning head comprising a first region a continuous squeegee element 620 that encircles a portion of the first region, wherein the first region is configured to rotate or oscillate, and bristles surrounding at least a portion first continuous squeegee element, wherein the bristles are configured to rotate or oscillate.

As for claim 32, there are wavy members or "bristles" 54 protruding from the portion of the first region that is encircled by the continuous squeegee element.

12. Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Holmes '408.

As for claim 25, Holmes '408 teaches a device comprising a cleaning head 6 comprising, a first wiping region 14, and a second wiping region 7, wherein the first wiping region 14 surrounds the second wiping region 7 and the first wiping region and the second wiping section are "configured to automatically move" independently from each other, wherein at least one of the first wiping region and the second wiping region comprises a cover or squeegee element. The "configured to automatically move" recitation does not require any motor or motorized means but merely requires an ability

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to so perform or at least "capable of" having such an arrangement. Holmes is deemed to meet such a broad limitation.

***Claim Rejections - 35 USC § 103***

13. Claims 1-4, 7 and 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fattori 2003/0182746 (hereinafter Fattori '746 in view of GB 2 371 217 (hereinafter GB '217)).

Fattori '746 teaches with respect to claim 1 a device comprising a cleaning head 14 comprising a first region 24 (Figs. 1, 2 and 4) configured to treat a working surface, the first region configured to move, and a second region 16 with bristles 18 configured to simultaneously treat the working surface, the second region 16 configured to move independently of the first region 24. Note, Fattori '746 teaches that numerous variations and alternatives could be practiced and any specific drawings are merely exemplary (paragraphs [0018] and [0027], for example). Paragraph [0027] teaches that first region 24 (or tuft block 24) can be "free floating," i.e., would not require any cam surface on shaft 20, and thus first region 24 may be free to move without any positive drive urging movement. Fattori '746 also teaches in paragraph [0016] that "bristles" is intended to be used in a generic sense as cleaning or massaging elements and could include, for example, elastomeric fingers or walls arranged in circular cross-sectional shape or any type of desired shape, including straight portions. Fattori '746 further teaches in paragraph [0018] that the invention could be practiced with various combinations of the same or different bristle configurations secured to the brush using the same or different

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bristle materials and that it is possible to select the combination of bristle configurations, bristle materials and bristle orientations to achieve specific intended results to deliver added oral health benefits like enhanced cleaning, tooth polishing, whitening and/or massaging the gums. Therefore, it is the Examiner's position that Fattori would already teach that the first region 24 could include a "first squeegee element" as suggested by paragraph [0018]. However, assuming *arguendo* that Fattori would not suggest such a limitation, GB '217 teaches a head region 13 with a first squeegee element 23. It would have been obvious to one of ordinary skill in the art to have modified Fattori's first region such that it has a first squeegee element as taught by GB '217 for enhancing oral health benefits such as adding a massaging effect.

As for claim 2, it is the Examiner's position that Fattori teaches that the second region can further comprise a second squeegee element for enhanced oral health benefits.

As for claim 3, the first region has bristles 32.

As for claim 4, the second region oscillates (see arrow 25 in Fig. 2 and see paragraph [0026]).

As for claim 7, the second region can comprise a second squeegee element as Fattori already teaches as mentioned above.

As for claims 26, 27, 28, 29 and 30, to avoid a redundant explanation, Fattori teaches such an arrangement in paragraph [0018].



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***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Calabrese, Touchstone, McGerry, Filler, Soetewey, and Kuo are relevant to various brush head arrangements with various bristle and elastomeric configurations.

15. Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The Examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the Examiner are unsuccessful, the Examiner's supervisor, John Kim, can be reached at (571) 272-1142. The number for Technology Center 1700 is (571) 272-1700.

The central fax number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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R. Chin

A large, stylized handwritten signature in black ink, appearing to be 'Randall Chin'.

Randall Chin  
Primary Examiner  
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